105TH CONGRESS, 2d Session | SENATE | REPORT 105–259

"SLAMMING"—THE UNAUTHORIZED SWITCHING OF LONG-DISTANCE TELEPHONE SERVICE

R E P O R T

MADE BY THE

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

OF THE

COMMITTEE ON GOVERNMENTAL AFFAIRS UNITED STATES SENATE

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LETTER OF SUBMITTAL

U.S. SENATE,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, DC, July 20, 1998.

Hon. FRED THOMPSON,
Chairman, Committee on Governmental Affairs,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Over the last several years, the number of incidents of telephone "slamming—the unauthorized switching of a consumer's long distance telephone service provider—has increased significantly. The FCC received over 20,000 complaints from consumers about slamming in 1997, a 900 percent increase over the number of slamming complaints received in 1993. These numbers probably represent only the tip of the iceberg, since most consumers do not report slamming complaints to the FCC and since there is no central repository for slamming statistics. It is clear from the increase in the number of slamming incidents each year that the problem is getting worse, and that the Federal Communications Commission (FCC) has not been able to control slamming or to undertake effective enforcement actions against those carriers that repeatedly engage in slamming.

For several months, the Senate Permanent Subcommittee on Investigations has been conducting an intensive investigation of the slamming problem, including the impact of slamming on consumers and small businesses, the extent of slamming across the country, the primary causes of slamming, and analysis of who is responsible for most of the slamming violations. Subcommittee investigators have also worked with the Office of Special Investigations of the General Accounting Office to document the primary causes of this fraudulent practice and the extent to which criminal elements have been responsible for the growing slamming problem. This comprehensive investigation identified many areas where changes to regulations and the law are needed.

As a result of the Subcommittee's extensive investigation, the February 18 and April 23, 1998 hearings, as well as the investigation conducted by GAO's Office of Special Investigations at the request of the Subcommittee, the Subcommittee has prepared, and I submit to you at this time, the attached Report, "Slamming": The Unauthorized Switching Of Long-Distance Telephone Service. This Report sets forth the Subcommittee's findings and recommendations concerning the growing problem of telephone slamming and the current regulatory efforts to control this practice. In transmitting this Report of the Permanent Subcommittee on Investigations, I would respectfully request that it be filed on the Senate Floor as expeditiously as possible.

Sincerely,

SUSAN M. COLLINS,
Chairman,
Permanent Subcommittee on Investigations.

Attachment.

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2d Session

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Mr. THOMPSON, for the Committee on Governmental Affairs, submitted the following

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I. INTRODUCTION

Over the last several years, the number of incidents of telephone "slamming"—the unauthorized switching of a consumer's long distance telephone service provider—have increased significantly. The Federal Communications Commission (FCC) received over 20,000 complaints from consumers about slamming in 1997, a 900 percent increase over the number of slamming complaints received in 1993. In Maine, the local telephone carrier reported a 100 percent increase in slamming complaints from 1996 to 1997. These numbers probably represent only the tip of the iceberg, since most consumers do not report slamming complaints to the FCC and since there is no central repository for slamming statistics. It is clear from the increase in the number of slamming incidents each year that the problem is getting worse, and that the FCC has not been able to control slamming or to effectively enforce its regulations against those carriers that repeatedly engage in slamming.

In December 1997, the Senate Permanent Subcommittee on Investigations (PSI) began its investigation of telephone slamming. After receiving numerous complaints from consumers and small businesses that had been slammed, the Subcommittee determined that it was necessary to review the prevalence of slamming and the adequacy of FCC regulations and enforcement efforts to control this practice. The General Accounting Office's (GAO) Office of Special Investigations assisted the Subcommittee in conducting its investigation of this growing practice.

On January 6, 1998, the Subcommittee requested that GAO assist the Subcommittee by (1) determining which entities or companies engage in telephone slamming violations, (2) determining the process by which the providers defraud consumers, and (3) reviewing what the FCC, state regulatory entities, and the telecommunications industry have done to curtail slamming. In addition, the Subcommittee asked GAO to present a case study of a long distance company that repeatedly slammed consumers as a standard business practice. The GAO conducted an in-depth review and issued its report entitled "Telecommunications: Telephone Slamming and Its Harmful Effects" (GAO/OSI–98–10). The report was made public at the Subcommittee's hearing on April 23, 1998.

The Subcommittee initiated its first of two public hearings on slamming on February 18, 1998, in Portland, Maine. Chaired by Senator Susan Collins, with the participation of Senator Richard Durbin, the February hearing focused on (1) the extent of the slamming problem in Maine and across the country, (2) the effect of slamming on individual consumers and small businesses, and (3) the adequacy of Federal regulatory and enforcement efforts. Witnesses at the hearing included consumer slamming victims Susan Deblois, from Winthrop, Maine, and Pamela Corrigan, from West Farmington, Maine; Steve Klein, the owner of Mermaid Transportation Company, a small business located in Portland, Maine that was slammed by a long distance reseller; Susan Grant, Vice President, Public Policy, National Consumers League; Daniel Breton, Director, Governmental Affairs, Bell Atlantic; and the Hon. Susan Ness, FCC Commissioner.

The February hearing provided an opportunity for consumers to testify about the problems they experienced with telephone slamming. At the hearing, Maine slamming victims explained how some long distance companies used fraudulent practices to change their telephone service. Witnesses used words such as "stealing," "criminal," and "break-in" to describe practices employed by unscrupulous telephone companies to pick up customers and boost profits.

Pamela Corrigan testified that she was sent an unsolicited "welcome package" in the mail, which looked like the stacks of junk mail that consumers receive every day. However, this "junk mail" was not what it appeared to be. This "welcome package" automatically signed her up for a new long distance service unless she returned a card rejecting the change. She was amazed and appalled that it was possible for a company to change her long distance service simply because she did not respond that she did not want their service. Susan Deblois testified that when she was slammed, her children were unable to use the 800 number she had for them to call home in case of an emergency.

The February hearing also illustrated how slamming not only affects families but also small businesses and communities. For example, Steve Klein, the owner of Mermaid Transportation Company in Portland, Maine, testified that his business phone lines, which are critical to his livelihood, were tied up for 4 days when he was slammed by a long-distance telephone reseller which falsely represented itself as AT&T. Similarly, Ms. Corrigan, who is the town manager of Farmington, Maine, reported that the town's phone lines were also slammed. It became clear from the hearing that no one is immune from this illegal activity.

Also at the February field hearing, FCC Commissioner Susan Ness testified about the FCC's efforts to control slamming. The Commissioner acknowledged that the FCC really does not know how many of the 50 million carrier selection changes each year result in slamming, since many slammed consumers resolve the problem without bringing it to the FCC. However, the Commissioner did offer the conservative estimate that if just one percent of the carrier changes made each year are the result of unauthorized changes in service, over 500,000 households are slammed each year.

The February hearing also made it clear that the FCC must step up its enforcement efforts against slammers. Senator Collins pointed out to the FCC that the States are much more aggressive than the FCC in taking enforcement actions against slammers. The FCC Commissioner agreed however, that the relatively small fines imposed on slammers by the FCC might be considered by the company as just the cost of doing business, rather than a real deterrent to slamming. In addition, the Commissioner agreed that the FCC could increase its enforcement against slammers and that establishing criminal penalties for slamming would help to reduce the problem.

Continuing with its overall inquiry into slamming, the Subcommittee held a second hearing on April 23, 1998, which focused on (1) the types of entities, both individuals and companies, who are responsible for a large number of the intentional slamming incidents, (2) the process by which slamming occurs under the existing regulatory scheme and market structure, (3) the adequacy of FCC efforts to control the slamming problem, and (4) the regulatory or legislative solutions to control the slamming problem. The hearing also documented the need for Congress to enact the key provisions of the "Telephone Slamming Protection Act of 1998" (S. 1740, introduced on March 10, 1998 by Senators Collins and Durbin).

At the April hearing, the Subcommittee heard testimony from Eljay Bowron, the Assistant Comptroller General for Special Investigations of GAO, who presented the results of GAO's investigation of the types of entities that engage in slamming and the process by which such entities are able to defraud consumers. Mr. Bowron testified that long distance companies engage in slamming because there is a financial incentive to do so and that it is easy for fraudulent individuals to enter the long distance market because there are no controls in place at the FCC to screen potential providers. As part of its investigation, GAO investigators filed fictitious information with the FCC without any difficulty, that gave the investigators authority to "resell" long distance services. This authority gives the applicant the ability to enter the long distance market and slam consumers with little chance of being caught. In addition, to illustrate how an entity engages in slamming, Mr. Bowron presented a case study of Daniel Fletcher, an individual who operated as a long distance reseller under at least eight different company names, slamming thousands of consumers. According to the findings in the GAO report, Mr. Fletcher slammed or attempted to slam over 500,000 consumers, billed consumers for at least $20 million in long distance charges, and left at least $3.8 million in unpaid bills to telecommunications industry firms. Furthermore, Mr. Bowron testified that the FCC took over 2 years to take final action against the Fletcher companies, and has been unable to locate Mr. Fletcher.

The Subcommittee also heard testimony from William Kennard, the FCC Chairman, about the FCC's efforts to control slamming. Chairman Kennard testified that current FCC rules do not do enough to protect consumers against slamming and that tougher rules are needed take the profit out of slamming. The Chairman explained that the FCC has proposed new rules to improve its ability to protect consumers from this fraudulent practice. However, the new rules have not yet been adopted by the FCC. The Chairman also testified that the FCC took the unprecedented action of revoking the operating authority of the Fletcher companies on April 21, 1998, and fined these companies $5.7 million.

At the April hearing, the Subcommittee learned that billing practices in the telecommunications industry allow long distance companies to use misleading company names that are difficult for consumers to identify on their phone bills, and that the States have been much more aggressive than the FCC in taking enforcement action against companies that repeatedly slam consumers.

The Subcommittee is issuing this report to set forth its findings and recommendations concerning the growing problem of telephone slamming and the current regulatory efforts to control this practice. This report is based on the Subcommittee's investigation, exhibits, and testimony from the February 18 and April 23, 1998 hearings, as well as on the investigation conducted by GAO's Office of Special Investigations at the request of the Subcommittee.

These hearings and investigations were conducted by the Subcommittee's Majority Staff under the direction of Chairman Susan M. Collins, with the concurrence and support of Ranking Minority Member, Senator John Glenn. This investigation was authorized pursuant to Senate Resolution 54, Section 13, adopted February 13, 1997, which empowers the Subcommittee to investigate, among other things, "the efficiency and economy of all branches of Government with particular references to the operations and management of Federal regulatory policies and programs."

II. BACKGROUND

A. The Telecommunications Industry

Prior to 1982, AT&T had a monopoly on long distance service. To settle a lawsuit brought by the Justice Department, AT&T agreed to be broken up into regional Bell operating companies, which would continue to have a monopoly on local service, while AT&T would compete with other carriers for long distance service. By the 1990's, competition in the long distance telephone market increased significantly. Currently, over 500 companies provide long distance telephone service to customers throughout the country.

In an attempt to further increase competition in telephone service, the Telecommunications Act of 1996 was enacted, in part, to allow the Bell operating companies to expand outside of local service and to open up competition in the local service market. The act allows the regional Bell companies to offer long-distance service to their customers only after the FCC and state regulators agree that the Bell companies have taken appropriate steps to allow competitors to offer local phone service in their markets.[1] The long distance market is expected to become even more competitive as local telephone companies start providing long distance service to customers. Several of the regional Bell companies are ready to offer long distance service as soon as they get approval from the FCC and state regulators.

B. The Regulatory Framework

Federal Role: The FCC is responsible for investigating complaints of telephone slamming and has the authority to punish companies that violate anti-slamming laws. The FCC has had regulations against slamming since 1985, after the breakup of AT&T, in order to protect a consumer's right to choose a long distance carrier as competition increased.

The Congress further bolstered the FCC's authority to regulate slamming by passing the Telecommunications Act of 1996. The Act prohibits telecommunications carriers from changing a customer's selection of a telephone service provider except in accordance with FCC verification procedures.[2] In addition, any carrier that violates FCC verification procedures by slamming, shall be liable to the previous carrier for all charges paid by the consumer. FCC regulations require long distance carriers to use one of four verification procedures to confirm carrier change orders resulting from telemarketing:

1. Written authorization from the subscriber (referred to as a letter of agency or LOA);

[1] The future of Section 271 of the act, which set out the steps that the Bell operating companies are required to take in order to enter the long distance market, has now been thrown into doubt. A U.S. District judge in Texas ruled on December 31, 1997 that the law violated the Bell's constitutional rights by not letting them into the long-distance business. The court held that section 271 violated the Constitution's "bill of attainder" clause that protects individuals from being targeted by legislation. Critics of the ruling argue that the Bell operating companies, which worked with Congress to write the act, have yet to open their markets to competition, and until then should not be allowed to compete in the long- distance market.

[2] Section 258 of the act, which is the section that prohibits slamming, was unaffected by the Texas ruling, discussed in footnote 1, striking down section 271 of the act.

2. Confirmation from the subscriber via a toll-free number provided exclusively for this purpose;
3. An independent third party to verify the subscriber's order; or
4. A "welcome package" that the consumer receives in the mail that requires the consumer to affirmatively reject the change in carrier; otherwise, the change goes into effect after 2 weeks.

FCC regulations also require carriers who provide unauthorized services to recompute the consumer's bill so that the consumer pays no more than would have been paid to the properly authorized carrier.

FCC rules regarding LOAs detail the minimum form and content for written authorizations of carrier changes. Misleading and deceptive LOAs are now prohibited under FCC regulations, such as those having a combination sweepstakes entry and letter of authorization to switch long distance service, or promotional materials in one language (Spanish, for example) and the LOA in another language (English, when sent to non-English speaking minorities).

The FCC can also impose penalties against carriers that violate its regulations, including slamming violations, as set out in its authorizing legislation, the Communications Act of 1934 (47 U.S.C. 205). Current FCC guidelines recommend a forfeiture of $40,000 for each "unauthorized conversion of long distance telephone service." The Commission and its staff retain discretion to issue a higher or lower fine than provided in the guidelines, or to issue no fine at all.

State Role: State Attorneys General and public service commissions have worked aggressively to take enforcement actions against companies that engage in slamming. The Telecommunications Act of 1996 specifically preserves the rights of States to regulate slamming in *intrastate* long distance services. While the Act is silent about the states' authority to regulate slamming in *interstate* long distance services, FCC officials welcome States to pass such regulations, provided they conform to FCC anti-slamming regulations. Some state courts have ruled that the 1996 Act preempts States from regulating interstate slamming, striking down state anti-slamming regulations. For example, in April 1996, a Minnesota state judge struck down that State's anti-slamming statute. However, many other States do regulate interstate slamming and have taken aggressive enforcement action against long distance companies that have engaged in this practice.

III. SUBCOMMITTEE INVESTIGATION OF SLAMMING

A. The Slamming Problem

The Subcommittee found that the number of slamming incidents has increased dramatically over the last few years. At the April 23, 1998 hearing, the Subcommittee displayed a chart detailing the total slamming complaints reported to the FCC from 1993 to 1998 (Exhibit 39a). The FCC received over 20,000 complaints from consumers about telephone slamming in 1997, making it the number one consumer complaint to the commission. This represents a 50 percent increase over the 12,795 slamming complaints received in 1996, and a 900 percent increase over the 1,867 slamming complaints received in 1993.

FCC Commissioner Susan Ness testified at the February 18, 1998 hearing that the FCC does not know how many of the 50 million carrier selection changes each year result from slamming, and stated:

> "If it were just even 1 percent, which as we all agree is extremely low and well understating the case, it would total over 500,000 complaints nationwide or slamming incidents nationwide."

However, other organizations have estimated that the slamming problem is worse than the FCC Commissioner suggested. For example, the National Association of State Utility Consumer Advocates estimated that as many as one million consumers are fraudulently transferred annually to a provider which they have not chosen.

Local exchange carriers, which are likely the single best source of the total number of slamming complaints, have reported a surge in slamming in recent years. For example, Southwestern Bell, which provides local service to customers in Texas, Missouri, Oklahoma, Arkansas, and Kansas, recently reported that they received nearly 558,000 slamming complaints from its customers in 1997, a nearly 50 percent increase from 1996. Bell Atlantic, which serves most of the Northeast with local telephone service, found that slamming complaints increased over 100 percent in Maine over the last 2 years, with 1582 slamming complaints from Maine consumers in 1997, up from 643 slamming complaints in 1996.

The National Consumers League (NCL), an organization that has taken an active role in educating consumers about telephone-related fraud and abuse, has also seen an alarming increase in slamming complaints in 1997. The NCL operates the National Fraud Information Center, a hotline for consumers to report telemarketing abuses. In 1997, the hotline received over 800 slamming complaints from consumers, making it the one of the top ten most frequent subjects of fraud reports made to the NCL. At the February 18, 1998 hearing, Susan Grant, the Vice President for Public Policy for the NCL and the Director of its National Fraud Information Center, testified that the slamming complaints they receive are "just a tiny fraction of the actual problem" of the total number of slamming incidents. In her written statement, Susan Grant presented evidence that Ameritech, a local exchange carrier serving five States in the Midwest, received 115,585 slamming complaints in 1997. The written statement also refers to a Louis Harris & Associates survey commissioned by the NCL to look at the effects of telephone competition in three Midwest markets (Chicago, Detroit/Grand Rapids, and Milwaukee), which found that nearly one-third of the respondents had been slammed or knew someone who had. Only 7 percent of the respondents who had been slammed reported the complaint to a government agency, and only 2 percent to a consumer group. Most consumers complained to the slammer, the original carrier, or the local exchange carrier.

While the incidences of slamming are clearly increasing, there is no reliable source for the total number of slamming cases. GAO States in its slamming report that:

> "determining the prevalence of slamming is extremely difficult . . . contributing to the uncertainty concerning the prevalence of slamming, some consumers, who do not review their monthly telephone bills closely, are unaware that they have been slammed."

As GAO testified at the April 23, 1998 hearing, there is no central repository for slamming complaints, so no one entity has complete information on the total number of slamming incidents that occur each year. While local exchange carriers routinely track the number of slamming complaints they receive from customers, they do not routinely report such information to the FCC or any state regulatory agencies. Currently, there is no requirement that slamming incidents be reported to the FCC.

B. Entities Responsible For Slamming Incidents

The Subcommittee has found that while all three types of long distance providers—*facilities-based carriers, switching resellers,* and *switchless resellers* have slammed consumers, switchless resellers are responsible for an inordinate number of intentional slamming incidents.[3] GAO stated in its report that representatives of the FCC, numerous state regulatory agencies, and the industry all identified resellers as "those who most frequently engage in intentional slamming." During the April 23, 1998 hearing, the GAO witness, Mr. Bowron, testified that:

> "Switchless resellers, which have the most to gain and the least to lose, slam most frequently."

Furthermore, GAO reported that "entrepreneurial criminals engaged in slamming operations prefer acting as switchless resellers to generate fast profits and to make criminal prosecution more difficult."

The Subcommittee has learned that FCC data on the number of slamming complaints also indicate that resellers are responsible for a large part of the slamming incidents. The FCC issues an annual Common Carrier Scorecard, which provides information on consumer complaints, including slamming complaints. The most recent scorecard was issued in December 1997, and it shows the complaint ratios—slamming complaints per million dollars of revenue—for the long distance companies served with more than 100 slamming complaints in 1996. While the major facilities-based carriers like AT&T, MCI, and Sprint, also have numerous slamming complaints against them, they had the lowest complaint ratios, ranging from .05 to .12. Virtually all of the companies with the highest complaint ratios were classified as resellers by the FCC. Subcommittee analysis of the 20,000 slamming complaints received by the FCC in 1997

[3] Facilities-based carriers, such as AT&T and Sprint, have extensive physical equipment including hard lines and switching stations necessary to take in and forward calls. Switching resellers may have one or more switching stations, but purchase access to the lines of the facilities-based carriers to "resell" long distance service to their subscribers. Switchless resellers have no equipment and purchase access to all of the necessary physical equipment to resell long distance service to their subscribers.

shows that seven of the ten carriers with the largest number of complaints are resellers. Also, the carriers with the highest complaint ratios in 1997 are all resellers. (See exhibit 39h.) Although AT&T, MCI, and Sprint accounted for about 25 percent of the total number of complaints, when their revenue is factored in, their complaint ratios are very low. According to FCC officials, after further investigation, many of the 1997 complaints against the major facilities-based carriers are likely to be actually caused by resellers that operate on the major carriers' networks.

Furthermore, the Subcommittee learned that consumer advocates have also found that resellers cause a majority of the slamming incidents. At the February 18, 1998 hearing, Susan Grant testified that, based on the consumer complaints to the National Consumers League about slamming, "most of those are about resellers of telephone service who buy service in bulk from the major carriers and resell it."

The Subcommittee has found that facilities-based carriers blame certain unscrupulous resellers for the bulk of the intentional slamming incidents. In its written statement for the February 18, 1998 hearing record, AT&T stated that "the carriers that slam our customers are frequently resellers that lease time on AT&T's network to provide their service." As a result, on March 3, 1998, AT&T issued a zero tolerance policy against slamming that includes monitoring its resellers' marketing practices to ensure that they are not misrepresenting themselves as AT&T and charging resellers for the cost of handling each valid slamming complaint the resellers causes. AT&T also initiated legal action against one reseller of its long distance services, Business Discount Plan,[4] due to subscriber complaints that Business Discount Plan slammed them by misrepresenting themselves as AT&T. In May 1998, Business Discount Plan entered into a settlement with AT&T, in which it agreed to send letters to its customers that it is not affiliated with AT&T and allowing them to switch back to AT&T without charge.

While the Subcommittee found that all three types of long distance providers have an economic incentive to slam subscribers, GAO reported that switchless resellers are responsible for a majority of the intentional slamming incidents because they have a strong economic incentive to slam consumers. GAO stated in its report that resellers make a profit by selling long distance services at rates that are higher than the fees resellers pay to the facilities-based carriers for handling their subscribers' calls. In order to get discounts on access fees charged by the facilities-based carriers, resellers often have to promise a certain level of usage from their subscribers. Therefore, it is critical to a reseller's profitability to maintain a certain subscriber level.

GAO also reported that facilities-based carriers have high fixed costs for network equipment and low costs for providing service to additional subscribers. Adding more subscribers increases the carrier's profits. However, it should be noted that facilities-based carriers have a significant investment in their reputations which decreases the likelihood that they would deliberately slam consumers.

[4] Business Discount Plan is the company that slammed Mermaid Transportation Company, the small business owned by PSI witness Steve Klein.

Many slamming complaints against facilities-based carriers are caused by unscrupulous marketing agents working for them or by using marketing practices that lead to customer confusion.

C. Process By Which Slamming Occurs

Slamming occurs when a customer's Primary Interexchange Carrier (PIC) is changed without his or her knowledge and consent. A PIC is the long distance carrier that provides service to the customer and can be changed by facilities-based carriers, resellers, or telemarketers acting on the customer's behalf. These entities slam consumers by changing their PICs through deceptive marketing practices such as getting customers to sign a misleading authorization form, by falsifying tape recordings to make it appear that the customer had verbally agreed to the PIC change, or by posing as the customer's currently authorized facilities-based carrier. Unscrupulous carriers also will forge LOAs or even just pull customers' numbers from a telephone book and submit them to the local exchange carrier for a PIC change.

Carrier Changes Done Electronically: The Subcommittee found that slamming is possible because the legitimate ways in which a customer's PIC is changed can be easily manipulated by a fraudulent telecommunications carrier. Both business and individual customers must elect a PIC, through their local exchange carrier, to provide their long distance service. Customers can voluntarily change their PIC by contacting their local carrier to request a change or a long distance company can initiate a PIC change after it receives authorization from the customer. The local carrier usually receives an electronic tape from the long distance companies and automatically processes the customers' PIC changes on behalf of the long distance carriers. The local carrier assumes that the long distance provider has complied with all FCC regulations in obtaining authorization for a PIC change. Many resellers have arrangements with the facilities- based carriers that they purchase usage from, to submit the PIC changes to the local carrier on the resellers behalf. In these arrangements, the facilities-based carriers require their resellers to verify that their customers' PIC changes are made in accordance with FCC regulations, but the facilities-based carriers are not required to police those resellers to make sure that they are in compliance. There is no requirement that the reseller or facilities-based carrier present evidence of the customer's authorization to anyone before the local carrier changes the customer's long distance service.

Industry Billing Practices Create Financial Incentives for Slamming: The Subcommittee found that current billing practices in the telecommunications industry allow long distance carriers to obtain a substantial percentage of the value of their customer's telephone usage in advance of customers paying for their service. Carriers need to maintain cash flow and customer usage data is considered a valuable commodity for which carriers can obtain advance payments from billing companies or local exchange carriers. Typically, long distance carriers, including resellers, enter into agreements with local carriers, for a fee, to bill customers for long distance service on their behalf. As part of the agreement, the local carrier will pay the long distance carrier upon submission of their charges for billing, holding back between 20 to 30 percent for its billing fee, discrepancies, uncollectible accounts, etc. Long distance carriers, can also enter into billing arrangements with a billing company (such as US Billing or Integretel), that, for a fee, acts as a middleman between the carrier and the various local carriers that have responsibility for the states that the carrier has customers in. This arrangement relieves the carrier from having to maintain separate agreements with each of the local carriers. Often, as part of the agreement, the billing company will pay the long distance carrier upon receipt of the data of customer phone usage, also holding back a percentage for the billing fee, uncollectible accounts, and billing discrepancies. The billing company will then send out bills to the customers on behalf of the carrier. When customers remit their payments to the billing company, the carrier owes to or receives from the billing company any difference between the advance payment and the total amount collected from the customers. The advance payments are particularly important to resellers, since they need to pay the facilities-based carriers for usage of the telephone lines and equipment.

Furthermore, the Subcommittee found that companies that engage in slamming usually get paid for the customer's long distance usage, despite the fact that the business was obtained without the customer's authorization. Mr. Bowron testified at the April 23, 1998 hearing that:

> "There is an economic incentive in that even if it [slamming] is identified, complained about, and action is taken, the slamming company still receives the money, at least at the rate that would have been paid to the customer's preferred carrier."

According to FCC regulations, when a customer is slammed, the customer is only liable for the charges at the rate they would have paid to their properly authorized carrier. Although the Telecommunications Act of 1996 provides that the slamming carrier is liable to the authorized carrier for the amount of money it collects from the consumer, the FCC admitted that the slamming carrier usually keeps the money. FCC Chairman Kennard testified at the April 23, 1998 hearing that telecommunications industry billing practices may be the root cause of the slamming problem. He stated that as long as there is a financial incentive to slam, slamming will continue to be a problem. In his testimony at the April hearing, Chairman Kennard stated:

> "I am concerned, however, that our rules don't yet do enough for consumers, and that is something that I intend to fix. We are considering tougher rules that I hope will take the profit out of slamming."

At the April 23, 1998 hearing, Senator Collins noted that current billing practices may have been appropriate when there were only a few large long distance companies in the market, but that these practices may need to be reviewed now that the number of providers has grown. Chairman Kennard also testified that he is planning to meet with billing companies and local carriers to discuss ways to change billing practices to control slamming and to prevent another billing problem—cramming, that is, billing customers for unauthorized, non-telephone charges.

Deceptive Practices Used to Slam Consumers: The Subcommittee learned that long distance companies use a variety of fraudulent and deceptive means to slam consumers. In her opening statement at the April 23, 1998 hearing, Senator Collins stated:

> "Consumers all over the country are increasingly the target of unscrupulous telephone service providers who use blatantly deceptive marketing techniques or outright fraud in order to change the long-distance carrier selections of consumers."

In a statement to the press about the April 23, 1998 hearing, Senator John Glenn agreed, stating:

> "Slamming is a double whammy against millions of American consumers who subscribe to telephone services in their homes and businesses. Slammers get consumers the first time by changing their telephone service without permission, and then often get them again by billing their phone calls at rates above industry standards—all this before the consumer knows what has happened."

At the February 18, 1998 hearing, National Consumers League representative Susan Grant testified that there are many ways that consumers are tricked and deceived, including:

> "—someone in the household signing up to receive coupons for products or to enter sweepstakes without realizing that in the fine print, they are agreeing to switch their telephone service;
>
> "—receiving calls from companies pretending to be their existing carriers, asking if they are satisfied with their service, or from organizations supposedly conducting surveys. If whoever answers says yes to any of the questions, their answers are taped and then presented later as proof of authorization;"

Pamela Corrigan, of West Farmington, Maine, testified at the February 18, 1998 hearing that she was slammed when she was sent an unsolicited "welcome package" in the mail from a long distance reseller, Minimum Rate Pricing. When she failed to respond to the negative option notice, thinking it was simply junk mail, her long distance service was switched to the unauthorized company. Ms. Corrigan stated:

> ". . . I felt I had been tricked. I wondered how it was possible for a company to change your telephone service simply because you did not respond within a specified amount of time telling them that you didn't want their service."

Steve Klein, the owner of a small Portland, Maine business, Mermaid Transportation Company, testified at the February 18, 1998 hearing that his company was slammed by a reseller of AT&T services, Business Discount Plan. This company apparently slammed Mermaid Transportation Company's four business telephone lines when it used a deceptive telemarketing ploy to get an employee to say "yes" in response to their questions about which long distance service the company used. Business Discount Plan is currently being sued by AT&T for misrepresenting itself as AT&T to customers in telemarketing calls.

GAO also reported that unscrupulous telemarketers or long distance providers may also falsify records to make it appear that the consumer agreed verbally or in writing to the carrier change. According to the GAO report, "It is also possible to slam consumers without ever contacting them, such as obtaining their telephone numbers from a telephone book and submitting them to the local exchange carrier for changing."

The Subcommittee also learned that some unscrupulous resellers purposely use deceptive company names to make it more difficult for consumers to realize that a new company is offering its long distance services. At the April 23, 1998 hearing, the Subcommittee presented two examples of customer bills generated on behalf of two of the companies owned by Daniel Fletcher, Phone Calls, Inc. and Long Distance Services. (See exhibits 39f and 39g.) The company names appear to be purposely chosen to confuse consumers looking at their bill, since it can appear to be the header for the list of the consumer's long distance calls made, rather than the name of a company. During the April hearing, Senator Collins asked FCC Chairman Kennard to identify the name of the long distance company on the bill for Phone Calls, Inc. (exhibit 39f), but he was unable to do so since the company name appeared on the bill as "Phone Calls," misleading even the FCC Chairman into believing that it was the heading for the list of phone calls that followed.

Long Distance Providers Can Easily Enter the Market: The Subcommittee also found that virtually anyone can easily enter the telecommunications market and become a long distance telephone service provider, without following licensing procedures. The April 23, 1998 hearing showed how the FCC's focus on increasing competition and making it easy for new companies to enter into the telecommunications marketplace has also created opportunities for unscrupulous actors to become long distance carriers. At the February 18, 1998 hearing, FCC Commissioner Ness advised that the FCC has no individual licensing process for long distance companies, and that authority is granted pursuant to a "blanket authorization." At the direction of Congress, the FCC has adopted a "laissez faire" approach in order to increase competition and reduce administrative burdens for telecommunications carriers.

GAO reported that to obtain an FCC license to be a telecommunications provider, a company must only pay a fee and file a tariff—a public statement of services, rates, and charges—with the FCC. The FCC provides blanket authority to operate as a long distance provider based on the carrier's assertion that it has provided the necessary information and fees. The FCC does not check the information in the application to ensure that it is accurate or complete, and does not perform any background checks on the principals of the company filing the tariff. Furthermore, the FCC has no system or procedure in place to prevent an individual or entity who has been barred from the telecommunications business from continuing to provide long distance service. After a long distance carrier files a tariff, the FCC requires it to file annual reports on communications related revenue, as well as the name of a designated agent for service of FCC notices and orders. However, only if the FCC receives complaints against a carrier, will the FCC check to see if the carrier is in compliance with filing requirements. This approach assumes that all carriers are trustworthy unless otherwise proven. GAO testified at the April 23, 1998 hearing that:

> "We found no FCC practice that would help ensure that applicants who become long distance service providers, or other common carriers, have satisfactory records of integrity and business ethics."

GAO also testified at the April 23, 1998 hearing that state regulators and the telecommunications industry views the tariff filing as a "key credential that signifies legitimacy." GAO reported that States have their own certification requirements for telecommunications carriers, but these vary greatly from state to State. Some States will provide a license to any carrier that pays a fee, while others will require documentation about the carrier's financial, technical and managerial abilities to provide telecommunications services. The Subcommittee learned, for example, that Delaware requires carriers to show they have the financial, technical, or managerial means to provide service before issuing a license. In addition, if a reseller does not have at least $250,000 in assets, then it is required to obtain a $10,000 bond with a Delaware surety. Many States will issue licenses as long as the carrier has an FCC license, believing that the FCC has already determined that the company is capable of being a long distance service provider.

Senator Carl Levin also commented at the April 23, 1998 hearing that more needs to be done to keep slammers from getting into the telecommunications business. He noted that slamming is the number one complaint received by the Michigan Public Service Commission, and that nationally, Michigan ranks fourth in the number of slamming complaints received. Senator Levin asked Mr. Bowron if bonding requirements would help keep unscrupulous switchless resellers out of the system. Mr. Bowron replied, "Yes."

At the April 23, 1998 hearing GAO testified about how investigators tested the FCC's oversight of the tariff filing process. GAO investigators filed a tariff with the FCC for "PSI Communications," a fictitious company. Using the FCC's instructions and sample tariff, the investigators submitted false information in the application, including the phone number from the sample tariff, and used a post office box as the company's address. (See exhibit 39b.) In addition, the investigators submitted a blank computer disk that was supposed to contain the tariff of rates to be charged by PSI Communications and failed to submit the required $600 filing fee. Nevertheless, within a few days, PSI Communications was listed by the FCC on the Internet as a licensed long distance carrier. (See exhibit 39c.) With this license, PSI Communications is now able to contract with a facilities-based carrier and resell long distance service to subscribers. After hearing GAO's testimony about the FCC filing procedures at the April hearing, Senator Collins stated:

> "One of the aspects of this that troubles me is that it seems that no one is really in charge, that the FCC ex-

pects the industry to essentially police itself, and for the major carriers to take responsibility for their dealings with the resellers. The industry seems to rely on the FCC's process."

At a later point in the April hearing, FCC Chairman Kennard testified that expending FCC resources to conduct background investigations on companies applying to be long distance service providers would not solve the slamming problem and would place unnecessary burdens for entering the telecommunication market. However, Senator Durbin pointed out to Chairman Kennard that the FCC has no mechanism, and assumes no obligation, for screening out unscrupulous companies at the outset. Senator Durbin stated:

> "I just don't buy your premise, and your premise is that if we are in the world of deregulation, it is time for the FCC to step aside and let the Wild West prevail . . . But I don't think it is unreasonable to also say that people who want to play in this arena have to be legitimate, that you have to know who they are and where they are and where they can be reached, because the bottom line is if your tariffs are meaningless- -and it appears they are—your enforcement actions are meaningless."

D. The Fletcher Case

The Subcommittee found that Daniel Fletcher, a long distance reseller operating under at least 8 different company names, slammed hundreds of thousands of consumers, billed at least $20 million in long distance charges, and left industry firms with about $4 million in unpaid bills for telephone network usage. Mr. Fletcher is an example of a long distance provider who repeatedly slammed subscribers as a standard business practice. The case study was limited to Fletcher's activities as a long distance reseller from 1993 to 1996. GAO presented the results of its investigation into the activities of Mr. Fletcher at the Subcommittee's hearing on April 23, 1998. GAO testified that from 1993 to 1996, Mr. Fletcher operated as a switchless reseller under various company names, and apparently slammed or attempted to slam thousand of consumers, including approximately 544,000 at one time.

Fletcher's Activities as a Long Distance Reseller: The Subcommittee learned that Mr. Fletcher began reselling long distance services in August 1993. It was at that time that Mr. Fletcher, operating as Christian Church Network, entered into a contract with Sprint and US Billing, Inc. (also known as Billing Concepts) to resell Sprint long distance services to subscribers. US Billing acted as the billing and collection agent for Christian Church Network through local exchange carriers. Under this arrangement, Sprint provided US Billing with the call usage of Mr. Fletcher's subscribers, which US Billing sent to the local carriers. The local carriers then billed their subscribers and sent payments back to US Billing. Initially, US Billing paid Sprint for telephone usage by Christian Church Network's customers, but in July 1994, Christian Church Network began paying Sprint directly for its phone usage. Also as part of these arrangements, Mr. Fletcher's company received advances on the cost of the calls charged to his customers from US Billing. According to US Billing records, Mr. Fletcher submitted over $12 million in bills for long distance usage to his customers. During the early portion of Mr. Fletcher's dealings with Sprint, the FCC received only a few slamming complaints from consumers about his companies. The number of consumer complaints against Mr. Fletcher's companies increased sharply during early 1996, as he attempted to fraudulently increase his customer base.

In October 1994, Mr. Fletcher, operating as Long Distance Services, Inc., entered into an agreement to purchase long distance usage from AT&T for resale to his customers. Mr. Fletcher's agreement with AT&T allowed him to handle his own billing and collections, which he contracted out to another billing company. The agreement required Long Distance Services to purchase a minimum of $300,000 of long distance services annually from AT&T. AT&T records show that Mr. Fletcher was billed about $2.7 million for AT&T network usage and paid them about $1 million. Adding in penalties imposed by AT&T for Mr. Fletcher's failure to meet his 3 year commitment to them, Mr. Fletcher currently owes AT&T about $2 million. Mr. Fletcher placed over 130,000 PIC change orders with AT&T, although some may have been rejected or later left his company due to slamming. Correspondence from Mr. Fletcher to AT&T in April 1996 indicates that his company was seeking to place over 540,000 subscribers with AT&T.

By mid–1996, Mr. Fletcher's relationships with Sprint, AT&T and US Billing began to deteriorate due to slamming complaints and nonpayment for telephone network usage. Between January and April 1996, Mr. Fletcher apparently stopped paying Sprint for network usage, causing Sprint to terminate its business relationship with him in September 1996. US Billing also terminated its relationship with Mr. Fletcher in September 1996, after receiving a large number of slamming complaints from Mr. Fletcher's subscribers. In April 1996, AT&T representatives started to question Mr. Fletcher about the dramatic increase in his subscriber base and whether he was following FCC regulations on proper subscriber verification for PIC changes. In an April 9, 1996 letter to Mr. Fletcher (exhibit 25a), an AT&T representative wrote, after receiving a large volume of PIC change orders from him, that:

> ". . . we are concerned regarding whether or not proper authorization as required by the FCC's rules for changing an end-user's primary interexchange carrier were followed with respect to these orders."

In another letter to Mr. Fletcher on April 16, 1996 (exhibit 25f), an AT&T representative stated that the LOAs submitted by Mr. Fletcher to AT&T for proof of verification for PIC changes:

> ". . . appear to violate the FCC rule that the LOA not be combined with any sort of commercial inducement. Furthermore, the LOA does not clearly inform the subscriber that it is authorizing a change in its primary interexchange carrier and does not clearly identify the carrier to which the switch is being made."

However, AT&T did not terminate its relationship with Mr. Fletcher until October 1996 (several months later), and only after he became seriously delinquent in his payments to AT&T for telephone network usage. By the time Mr. Fletcher's business relationships were terminated, he owed about $586,000 to US Billing, $547,000 to Sprint, and $2 million to AT&T. To date, Mr. Fletcher has never paid these companies for the outstanding amounts.

In mid–1996, Mr. Fletcher, operating as Phone Calls, Inc., also entered into a contract with Atlas Communications, Inc., a reseller of Sprint long distance services. Under this agreement, Phone Calls, Inc. purchased network usage from Atlas for resale to its subscribers. In July 1996, Mr. Fletcher provided an electronic tape of 544,000 subscribers to Atlas. Atlas forwarded this tape to Sprint for placement on Sprint's telephone network. However, only about 200,000 of the subscribers were able to be switched to the new network. This was due to either PIC freezes that were on subscribers' telephone numbers or the telephone numbers did not exist. As a result, Atlas terminated its contract with Mr. Fletcher and later learned that an unusually high percentage (about 30 percent) of Phone Calls, Inc. subscribers complained that they were slammed. Due to its prompt action, Atlas prevented Phone Calls, Inc from receiving any payments for its customers' long distance calls. Atlas subsequently sought to be allowed to keep serving Mr. Fletcher's customers that were placed on Sprint's network. According to Atlas officials, by February 1998, Atlas was providing long distance service for less than 20 percent of the original 200,000 customers placed by Mr. Fletcher on Sprint's network.

The April 23, 1998 hearing highlighted how Mr. Fletcher used current telecommunications industry practices to his advantage to steal millions of dollars from customers, long distance service providers, and billing companies. Both the current regulatory scheme and market structure can allow unscrupulous individuals to operate with impunity in the long distance telephone industry. At the hearing, the Subcommittee displayed an example of the sweepstakes entry form that Mr. Fletcher used to deceive consumers into signing up for his companies' long distance services (exhibits 39d and 39e). One chart showed a poster used by Mr. Fletcher (exhibit 39d) and the other showed the three-by-five card which served as the letter of authorization to switch consumers long distance services to one of Mr. Fletcher's companies. Senator Collins pointed out at the April hearing that:

> "most consumers thought that when they filled out this postcard that they were signing up to win the new Mustang convertible or $20,000 in cash."

Mr. Bowron also testified that this method was often used by companies to slam consumers and stated that:

> "[. . . It was a] typical example of a deceptive marketing practice to build your customer base."

The Subcommittee also learned that several of the companies that Mr. Fletcher had done business with suspected that he was in violation of FCC regulations to prevent slamming. However, these companies were under no obligation to report such activity to the FCC. Mr. Bowron testified at the April 23, 1998 hearing that while AT&T wrote to Mr. Fletcher in April 1996 questioning the legitimacy of his letters of authorization for customer change requests, AT&T did not report its suspicions about Mr. Fletcher to the FCC. Specifically, Mr. Bowron stated:

> "From our interviews and investigation with respect to the industry, they do not report that kind of activity. They don't consider it their responsibility to report that kind of activity . . . they expect the company to comply with FCC regulations, but do not report it to the FCC."

In addition, the Subcommittee learned that carriers that sell long distance network access to resellers are not required to check that the reseller has met FCC filing requirements or that the FCC has revoked the reseller's operating authority. While questioning the FCC Chairman at the April 23, 1998 hearing, Senator Collins stated that:

> ". . . the major carriers, the facility-based carriers, are not checking to see whether there is a tariff before doing business with a provider. And in the Fletcher case, as you have pointed out, he registered with you or filed the tariff for a couple of his companies, but he didn't with others. . . . My concern is that were it not for the notoriety that our investigation has given Mr. Fletcher, there would be nothing to stop one of the carriers from doing business with him tomorrow, despite your order barring him, because they are not checking with you."

Enforcement Action Against the Fletcher Companies: The Subcommittee learned that the FCC first began receiving slamming complaints against Mr. Fletcher's companies in 1993. As is standard FCC practice, the complaints were forwarded to the appropriate company with an official notice requesting a response to the FCC. According to the FCC, the Mr. Fletcher failed to respond to the vast majority of notices issued to them from 1993 to 1996. In the few instances in which Mr. Fletcher filed responses, the responses failed to satisfy the complaints. Notices issued and sent to Mr. Fletcher from June 1996 and later were returned to the FCC by the U.S. Postal Service marked "unclaimed," "moved," or "refused." Further investigation by the FCC determined that only two of Mr. Fletcher's companies, Discount Calling Card and Phone Calls, Inc., had tariffs on file, required by the FCC as a precondition to being licensed. The other companies operated without any tariff or license from the FCC. In addition, none of Mr. Fletcher's companies filed annual reports or the names of designated agents, as required by the FCC. The addresses that the FCC had on file for Mr. Fletcher's companies were all mail box drops that Mr. Fletcher no longer used.

Despite the numerous slamming complaints against Mr. Fletcher's companies from about 1993 to 1996, the FCC did not start any official action against him until December 1996, when it proposed a fine against Long Distance Services, Inc. for $80,000. In addition, in June 1997, the FCC issued an "Order to Show Cause and Notice of Opportunity for Hearing" to propose that the operating authority of the Fletcher companies be revoked for slamming and other violations. However, this order was not finalized until

April 21, 1998, 2 days before the Subcommittee's April 23, 1998 hearing. Senator Collins raised this issue at the April 23, 1998 hearing to the FCC Chairman:

> Senator Collins: ". . . However, it is my understanding that the FCC received the majority of the complaints against the Fletcher companies in mid–1996, and during the interim time, several States took action against Fletcher. Alabama, Illinois, Florida, and New York actually revoked his authority to operate over a year ago. Why did it take the FCC almost 2 years to issue a final order in this case banning him from the business?"
>
> Chairman Kennard: "Well, I have reviewed the enforcement action in the Fletcher case, and first let me say that the slamming complaints should be expedited. I think the Commission can and will take steps to make sure that complaints are expedited. They are taking too long."

The Subcommittee also found that a number of States have taken more aggressive enforcement action against the Fletcher companies. In 1996 and 1997, Alabama, New York, Illinois, and South Carolina revoked Phone Calls, Inc."s state telecommunications licenses, due to slamming and other complaints. In August 1997, the Florida Public Service Commission fined Phone Calls, Inc. $860,000 for slamming violations. This fine is significantly higher than the $80,000 penalty assessed by the FCC in May 1997 against one of Fletcher's companies.

At the April 23, 1998 hearing, Senator Collins asked Mr. Bowron to give his opinion of the FCC's enforcement activity in the Fletcher case. Mr Bowron stated:

> "Well, the enforcement activity in this case really was not more aggressive than sending a notice of the orders to Mr. Fletcher. . . . So while they did initiate some action, they really did not follow through with the action as soon as they could have based on his lack of response, which enabled him probably to stay in business longer than he would have."

Senator Durbin summed up the enforcement action taken against Fletcher by stating at the April 23, 1998 hearing:

> "The more I get into this, the more I am convinced that, to this point, no one has taken this seriously. If a fellow like Fletcher can get into business and . . . can make, it appears, millions of dollars off of this and ultimately escape prosecution. As I understand it, he has never been indicted or prosecuted for anything. . . . You know, if you steal hubcaps they stop you, arrest you, make you face the judge, and this fellow is involved in millions of dollars of fraud, and no one has ever prosecuted him."

E. Enforcement Actions Against Slamming

The Subcommittee found that FCC enforcement actions against slamming have been ineffective in controlling this growing problem. Generally, the FCC's investigations of companies that engage in slamming take much too long, fines against such companies are too low to have a deterrent effect, and the States have been much more aggressive than the FCC in taking action against slamming.

The Subcommittee learned that from 1994 until March 1998, the FCC took enforcement action against only 17 companies for slamming violations, including assessing $1.5 million in forfeitures and consent decrees and $280,000 in pending fines. Only after the Subcommittee had investigated Mr. Fletcher for several months did the FCC finally take an unprecedented enforcement action by revoking the operating authority of the Fletcher companies, and fining them $5.7 million for slamming and other violations on April 21, 1998. This marked the first time that the FCC has taken such aggressive action against a company for slamming.

The Subcommittee learned that the FCC will initiate a formal investigation of a carrier for slamming complaints if the FCC receives a large volume of complaints, or if the complaint involves an allegation of forgery or other fraudulent activity by the carrier. First, the FCC will usually contact the carrier informally to request that they come in to the FCC and explain the reason for the slamming complaints against them. If the carrier does not satisfactorily explain the slamming complaints or does not meet with the FCC at all, the FCC can issue a "Notice of Apparent Liability for Forfeiture," which proposes a fine against the carrier for the slamming violations. If the FCC does not have enough evidence to issue a forfeiture notice, then it can issue a public letter of admonition against the carrier, which puts the carrier on notice that its activities are under scrutiny by the FCC.

When a carrier gets a forfeiture notice, it usually comes in to explain its actions. The carrier can then enter into a consent decree, whereby it voluntarily makes a payment to the U.S. Treasury and takes steps to eliminate the practices that led to the slamming complaints against it. (The carrier can enter into a consent decree even before getting a forfeiture notice, when it comes in to the FCC informally to discuss slamming complaints against it.) If the carrier does not enter into a consent decree, the FCC can finalize the forfeiture and issue a forfeiture order, which fines the carrier for the slamming violations. If warranted, the FCC can initiate revocation proceedings by issuing a "Show Cause Order." Under such an order, the FCC asks the carrier to formally, in an administrative proceeding, show cause as to why the FCC should not revoke its authority to offer long distance services. The FCC has only issued one such order, against the Fletcher companies, for slamming violations.

Current FCC guidelines recommend a forfeiture of $40,000 for each "unauthorized conversion of long distance telephone service." The Commission and its staff retain discretion to issue a higher or lower fine than provided in the guidelines, or to issue no fine at all. The FCC has statutory authority to impose a maximum fine of $110,000 per slamming incident, or $1,100,000 for continuing violations. Based on the fines imposed by the FCC to date, most of the fines against carriers for slamming have been for $80,000 or less. This is due to the limited authority delegated to the Common Carrier Bureau to assess fines above that amount. Fines above $80,000, which have been proposed against only two companies, require the Commission's approval. It is less work for the Commission to handle slamming enforcement actions at the bureau level, which accounts for the fact that most fines are $80,000 or less. In addition, the FCC does not have the resources to completely investigate every slamming offense, which is required before they can assess a fine against a carrier. As a result, they will choose one or two of the strongest cases against the carrier to investigate fully to use to support the fines.

The Subcommittee found that state officials have been more aggressive than the FCC in pursuing slamming violators. At the February 18, 1998 hearing, Senator Collins provided a specific example to FCC Commissioner Susan Ness of how States have imposed much higher fines against companies for slamming than the FCC does for the same companies.

> Senator Collins: "Well, let me give you a specific example, because in several cases the States have been far more aggressive than the FCC. You heard this morning Pamela Corrigan describe her experience with a company called Minimum Rate Pricing. Florida assessed a fine of $500,000 against this company for slamming. The FCC, by contrast, assessed a fine of only $80,000. My concern is that an $80,000 fine——
>
> Ms. Ness: "Is the cost of doing business."
>
> Senator Collins: "Exactly."

At the April 23, 1998 hearing, Mr. Bowron testified that "generally, the States have taken the stronger action." In its report, GAO stated that "in comparison with some states' actions, the FCC has taken little punitive action against slammers." Furthermore, the GAO report concludes that "the FCC takes an inordinate amount of time, as acknowledged by FCC officials, to identify companies that slam consumers and to issue orders for corrective actions (i.e., fines, suspensions) or to bar them from doing business altogether."

The Subcommittee presented two charts at the April 23 hearing that show the disparity between the slamming penalties imposed by the States and those imposed by the FCC (exhibits 39j and 39k). The charts showed that as of the beginning of April 1998, the FCC had taken a total of $1.8 million in enforcement actions against companies for slamming. However, just 17 States, which is not inclusive of all state enforcement efforts, took a total of at least $17.5 million in enforcement actions against companies for slamming. Senator Collins pointed out that the States have imposed higher fines and tougher penalties, and they have acted much sooner.

F. Legislative and Regulatory Proposals To Control Slamming

Legislative Responses to Slamming: The Subcommittee found that despite current laws and regulations that prohibit slamming, this practice continues to be used by long distance carriers against unwitting consumers. To attempt to stop the dramatic increase in slamming complaints in the last few years, several bills were introduced in the House and the Senate over the last year which would impose greater fines and penalties on companies that violate anti-slamming regulations, and allow consumers, or state Attorneys General on behalf of consumers, to sue such companies in state or federal court, among other things.

On March 10, 1998, Senator Collins and Senator Richard Durbin introduced S. 1740, the "Telephone Slamming Prevention Act of 1998." The bill includes the following provisions:

> *Clarification of Verification Procedures:* The bill amends current law, which allows the FCC to determine the verification procedures that telecommunications carriers can use when executing a change in subscriber service, to place some restrictions on the approved verification methods. Specifically, this provision will eliminate the "welcome package" method of verification. It will still allow the FCC to determine the appropriate forms of verification and the time and manner in which such verification must be retained by carriers.
>
> *Liability for Charges:* The bill also allows subscribers who have been slammed, and who have not yet paid their telephone bill to the unauthorized carrier, to pay their original carrier for their phone usage, at the rate they would have been charged by their original carrier. The provision will not change existing law and FCC regulations that make the slamming carrier liable to the original carrier for any charges it collects from a slammed subscriber. This provision is designed to take away the financial incentive for slamming.
>
> *Additional Penalties:* The bill also increases the civil penalties for slamming and creates criminal penalties.
>
> The civil penalties provision will require the FCC to assess a minimum of $50,000 for the first slamming offense, and $100,000 for any subsequent offense, unless the Commission determines that there are mitigating circumstances. Currently, the penalty typically assessed by the FCC is only $40,000 for each offense.
>
> In addition, this provision will allow the Commission, at its discretion, to assess civil penalties against carriers that make unauthorized carrier changes on behalf of their agents or resellers. It will require the Commission to promulgate regulations on the oversight responsibilities of the underlying facilities-based carriers for their agents or resellers. This will make it clear to carriers, who sell access to their telephone lines, that they have some responsibility for the actions of their agents or resellers.
>
> Currently, slamming is not a crime. The criminal penalties provision will make intentional slamming a misdemeanor for the first offense (not more than 1 year imprisonment), and a felony for subsequent intentional slamming offenses (not more than 5 years imprisonment). Criminal fines for intentional slamming are the same as those for any other federal crime: a maximum of $100,000 for a misdemeanor and $250,000 for a felony. In addition, anyone convicted of the crime of intentional slamming will not be allowed to be

a telecommunications service provider, and any company substantially controlled by a person convicted of intentional slamming will also be disqualified from providing such services. After 5 years, however, the FCC shall have the option to reinstate such individuals or companies disqualified under this provision, if it is in the public interest to do so.

State Actions: The bill gives the States the right to take action against slammers on behalf of its residents, and makes it clear that nothing in this section preempts the States from taking action against intra-state slammers. This provision is necessary because some state supreme courts have ruled that FCC regulatory authority preempts the States from acting in this area.

Reports on Slamming Complaints: The bill requires all telecommunications carriers, including local exchange carriers, to report on the number of subscriber slamming complaints against each carrier. The provision allows the FCC to determine how often these reports have to be submitted. This provision will not require carriers to refer complaints on an individual basis, only a summary report that could be used by the FCC to determine which companies are engaging in patterns and practices of slamming.

FCC Report on Slamming and Enforcement Actions: The bill establishes a requirement that FCC submit a report to Congress on its slamming enforcement actions. The FCC already provides this information in its Common Carrier Scorecard, so this provision does not establish a new report. It is designed to make it clear to the FCC that Congress considers slamming enforcement important.

FCC Report on Adequacy of FCC License Process: This bill requires the FCC report to Congress on whether current licensing requirements and procedures are sufficient to prevent fraudulent telecommunications providers from receiving an FCC license. Currently, the FCC does not review telecommunications provider applications prior to issuing FCC licenses, allowing fraudulent companies into the telecommunications marketplace.

Support for Collins-Durbin Slamming Legislation: During the April 23, 1998 hearing, witnesses supported several provisions of the Telephone Slamming Prevention Act of 1998 (S. 1740), the Collins-Durbin slamming bill. Mr. Bowron testified that currently, there is an economic incentive to slam consumers, since slamming carriers receive money from consumers. He agreed that a provision like the one in the Collins-Durbin bill that would allow consumers to pay their original carrier rather than the carrier that slammed them would help reduce the financial incentive to slam. FCC Chairman Kennard also stated in his testimony at the April hearing that he wants to remove the financial incentive to slam.

Another provision of the Collins-Durbin slamming bill that was discussed at the April 23, 1998 hearing was the requirement that all carriers report slamming complaints to the FCC. Both the GAO and FCC witnesses agreed that such a provision would be helpful to the FCC's slamming enforcement efforts. Chairman Kennard stated:

> "I like this provision in your legislation which requires the carriers to notify the FCC when they become aware that there is a [slamming] problem. I think that that would be a helpful solution."

Also at the April 23, 1998 hearing, witnesses supported having criminal penalties for intentional slamming, as the Collins-Durbin bill would do. Based on his 24 years of law enforcement experience and as the former director of the U.S. Secret Service, Mr. Bowron testified in support of criminalization of intentional slamming by stating that:

> ". . . it would be, I think, from an enforcement standpoint for prosecuting attorneys and law enforcement agencies, preferable if there were specific violations that were specific to slamming, rather than trying to use the facts and circumstances to rely on other statutes."

Chairman Kennard also went on record during the April hearing in support criminalization of intentional slamming. In addition, in its written statement to the record, the Telecommunications Resellers Association, a major association representing over 500 telephone resellers, supported the notion that intentional slamming should be a criminal act:

> "Those few entities who intentionally engage in slamming are indeed criminals whose sole intent is to gain from deceiving and defrauding the public, and should be subject to swift, decisive, and harsh enforcement action accordingly."

In addition, Susan Grant, of the National Consumers League, wrote to Senator McCain to specifically support several provisions that are contained in S. 1740, including the liability for charges provision, carrier reporting of slamming complaints, and criminalization of intentional slamming.

Comprehensive Slamming Bill Passes the Senate: On May 12, 1998, the Senate passed (99–0) the "Consumer Anti-Slamming Act" (S. 1618). This bill strengthens safeguards to prevent slamming from occurring in the first place, establishes a process to resolve slamming complaints, and increases the ability to punish those who are guilty of slamming. Three provisions from the Collins-Durbin anti-slamming bill (S. 1740) were offered on the Senate floor and included in the slamming bill passed by the Senate, including liability for charges, slamming reporting requirements, and criminal penalties for intentional slamming.

Also included in the Senate slamming bill are two amendments sponsored by Senator Levin, and cosponsored by Senators Glenn and Durbin. One amendment requires telephone bills to clearly state the name of the company that is providing a consumer's long distance service. The second amendment requires switchless resellers of long distance service to furnish a bond to the FCC and prohibits carriers from billing customers on behalf of switchless resellers prior to verification that the bond has been furnished.

House Slamming Bill Introduced: On May 14, 1998, Representative Tauzin (R-LA), along with several co-sponsors, introduced the "Anti-slamming Amendments Act," (H.R. 3888) in the House of Representatives. This bill is essentially the same as the slamming bill passed by the Senate, S. 1618, except that it does not include the provision making intentional slamming a crime.

FCC Regulations: The FCC is in the process of issuing revised regulations to further protect consumers against slamming, including improvement of existing verification procedures and preventing unauthorized carriers from keeping any revenue obtained through slamming. In July 1997, the FCC issued a notice about the proposals and received public comments. The commissioners have not yet decided on what changes will be made. The commissioners are expected to issue the new order sometime in 1998. However, due to passage of the Senate bill and pending legislation in the House, the Commission is waiting to see the outcome of the final slamming legislation before it issues its new rules. The FCC staff has recommended a number of changes to the commissioners, including the following:

> *Liability For Charges:* Require the slamming carrier to pay the authorized carrier for any telephone services paid by the slammed subscriber. Currently, the authorized carriers can seek payment from the slamming carrier, but they have not availed themselves of this option. (Carriers would probably only bother to seek payment from a slammer if they had lost significant business due to one company's slamming practices. Under the current rules, the FCC recommends that carriers come to them to arbitrate with the slamming carrier before bringing legal action.)
>
> As part of the rule change, the FCC is considering allowing the subscriber to not pay for long distance calls made with the slamming long distance carrier. This would take away the economic incentive to slam. However, this could also invite fraudulent slamming complaints from subscribers trying to avoid long distance charges.
>
> Also related to this rule change is the proposal to require the slamming carrier to be responsible for reinstating any premiums that the subscriber would have earned with the authorized carrier, such as frequent flyer miles. The FCC is looking for ways to make the subscriber whole and is likely to adopt new rules that would include some type of reimbursement for such premiums.
>
> *Eliminate Welcome Package:* Eliminate the "welcome package" method of verifying a subscriber's long distance carrier change. Currently, after a telemarketing call is made by the long distance carrier, the carrier can send out a welcome package to the subscriber to confirm the order. If the subscriber does not affirmatively respond to the confirmation, then that is an acceptable authorization to switch carriers. Some carriers have fraudulently sent out welcome packages without having made the initial telemarketing call, knowing that most subscribers will assume

that it is junk mail and not even open the package. The long distance carrier, Minimum Rate Pricing, Inc., has used this method to slam subscribers, including Pamela Corrigan, one of the witnesses at the February 18, 1998 hearing. FCC Commissioner Ness testified at the February hearing that she would support eliminating the welcome package.

IV. FINDINGS AND CONCLUSIONS

Based on its investigation into the exploding problem of telephone slamming, the Subcommittee makes the following factual findings and conclusions:

1. Long distance switchless resellers are responsible for a large part of the intentional slamming problem. Although some slamming is caused by facilities based carriers (like AT&T, MCI and Sprint) and switched resellers (those with some equipment and facilities), a disproportionate number of slamming complaints are filed against switchless resellers of telecommunications services. Unlike the larger companies which have a financial investment in the long distance business, many of these switchless resellers are largely middlemen who have no significant investment in their businesses and who have little to lose from widespread slamming. The facilities-based carriers rely on their business name and reputation to operate in this highly competitive market, and they have less of an incentive to engage in the deceptive practices used to slam consumers. Resellers, on the other hand, are more likely to use deceptive company names such as "Long Distance Services" or "Business Discount Plan" to make it harder for a customer to detect a new long distance company name on their telephone bills. As the Subcommittee revealed in the Fletcher case, it is very easy and inviting for switchless resellers to start up a long distance telephone service "on paper," slam thousands of consumers, steal millions of dollars and then just abandon that business when federal or state authorities begin investigating them. By the time the facilities-based carriers, billing companies, state regulators or the FCC come around looking for the slamming perpetrators, they are long gone and may have set up another company with a different name but doing the same business.
2. The FCC does not review license applications prior to granting authority to long distance companies to operate, nor do they have procedures in place to ensure that unscrupulous providers, who have been barred from the industry, do not continue to operate long distance service companies. As the April 23, 1998 hearing revealed, GAO investigators filed fictitious information with the FCC to get authority to operate a long distance telephone company. Even though the computer disk that was supposed to contain the tariff information was

blank, the phone numbers were fictitious, and no filing fee was ever remitted, the FCC listed “PSI Communications” on their Internet site as an authorized long distance company.

Because the FCC does not review license applications, and does not have a system designed to screen out fraudulent carriers in the first place, it may be nearly impossible to catch the bad actors. For example, in the Fletcher case, even though the FCC took enforcement action against the Fletcher companies for extensive slamming violations, the Commission could not locate Mr. Fletcher. The addresses listed on his FCC applications were long abandoned mail box drops and the telephone numbers listed were not in operation. The FCC notices were returned as undeliverable. At about the same time that the FCC was investigating Mr. Fletcher for slamming consumers, Mr. Fletcher filed a tariff and received authority from the FCC for another long distance company that he operated. The FCC did not scrutinize Mr. Fletcher’s application or check to see if he was previously in violation of FCC regulations. In a few cases, Mr. Fletcher operated long distance companies which had no tariffs, annual reports or designated agents on file with the FCC. Mr. Fletcher operated as a reseller of telecommunications services under at least 8 different company names, repeatedly slamming consumers. As the GAO witness stated in his testimony at the April hearing, despite the FCC’s recent enforcement action against Mr. Fletcher, there are no FCC procedures preventing him from filing a tariff with the FCC and getting back into the long distance business again.

Furthermore, the FCC does not currently require facilities-based carriers, or resellers that sell telephone network access to other resellers, to check with the FCC to determine if the reseller has met FCC filing requirements or if the FCC has revoked the reseller’s operating authority. As the Subcommittee investigation determined, if carriers are not required to check with the FCC, someone like Mr. Fletcher can purchase network access from facilities-based carriers and other resellers without properly obtaining authority to operate as a long distance carrier. Furthermore, even though Mr. Fletcher’s companies have had their operating authority revoked by the FCC, he could still purchase long distance access from other carriers if the companies don’t check with the FCC first.

Although the FCC testified that screening license applications would not be an economical or effective means of preventing fraudulent actors from filing false applications with the FCC, the Subcommittee found that some basic screening would protect consumers and enhance slamming enforcement actions.

3. Deceptive marketing practices and fraud account for many of the slamming incidents. Deceptive practices, such as high pressure phone calling and misleading sweepstakes entries, account for a large number of slamming complaints each year. These deceptive practices are often employed by unscrupulous resellers and in some cases by the direct marketing companies hired by the larger, facilities-based carriers. In each of these cases, slamming can occur because the long distance company, and not just the consumer, is able to change the consumer's long distance service provider. Unlike most industries, long distance companies can place a change order with the local telephone company and switch the long distance service of the customer without the customer's direct involvement at all. This system was designed with good intentions—to facilitate competition in a previously non-competitive marketplace that was dominated by one, huge provider of telephone service, AT&T. After the break-up of AT&T in the 1980's, this system was devised to allow smaller companies to compete in providing long distance services, and to reduce long distance costs to consumers through competition. The weak link in the system, however, is properly securing "the customer's permission" to change the long distance provider.

The problem of slamming occurs when customers are deceived into changing their long distance provider or a long distance company simply changes the service without any contact with the customer. The Subcommittee found instances of misleading sweepstakes forms and high pressure telephone marketing practices used to deceive consumers into switching long distance service. During the April 23, 1998 hearing, the Subcommittee revealed that Mr. Fletcher used deceptive sweepstakes entry forms as letters of authorization, in some cases even forging the customers' signatures. During the February 18, 1998 hearing, the Subcommittee heard testimony from Pamela Corrigan, who was slammed when she received an unsolicited "welcome package" in the mail that looked like junk mail, but automatically signed her up for a new long distance service unless she returned a post card rejecting the change. Another witness at the February hearing, Steve Klein, testified that his business long distance lines were slammed when a reseller misrepresented itself as AT&T in order to confuse an employee about the carrier switch.

4. Unscrupulous long distance companies have a financial incentive to slam consumers. Under the current billing system, *crime does pay* in the case of slamming. Unscrupulous long distance telephone companies have a financial incentive to slam as many customers as they can. Currently, if a customer complains about being slammed, the bill is recomputed by the local telephone

company and the customer pays the phone bill based on the rates of the properly authorized carrier. However, customers pay the carrier that slammed them. In this case, crime pays for the slamming carrier. In addition, if customers never complain or don't notice that their long distance service was changed without their permission, then the slamming carrier continues to bill the customers at the slamming carrier's rates. In either case, the slamming company wins. As the Subcommittee investigation revealed in the Fletcher case, Mr. Fletcher was able to manipulate the industry's billing practices to obtain millions of dollars in advance payments for the customers that he slammed. Under current regulations, long distance companies have a financial incentive to repeatedly slam telephone customers. As FCC Chairman Kennard testified at the April 23, 1998 hearing:

> "I believe that the reason people slam is because there is a financial incentive to do so, and we need to remove that financial incentive."

5. The FCC's enforcement actions against slamming are inadequate. The FCC has disciplined a relatively small number of long distance telephone companies for violation of slamming regulations, and the civil fines imposed are very low compared to state actions against the same companies. For example, in February 1998, the Florida Public Service Commission proposed a $500,000 fine against Minimum Rate Pricing for slamming subscribers while the FCC fined the same company only $80,000. In the Fletcher case, Florida fined a Fletcher company for $860,000, while the FCC originally fined one of the Fletcher companies only $80,000. Even though hundreds of thousands of Americans are slammed each year, the FCC has taken action against just 17 companies for slamming violations since 1994, including assessing $1.8 million in forfeitures, pending fines, and consent decrees. In contrast, as demonstrated at the April 23, 1998 hearing, 17 States have assessed at least $17.5 million in fines, pending fines, and consent decrees.
6. The FCC does not have an complete estimate of the total number of slamming incidents. The Subcommittee has found that the FCC does not know the actual number of slamming incidents that occur each year, because it relies on customers to voluntarily write in to the FCC with a slamming complaint. As GAO found in its investigation, there is no central repository for slamming complaints. Furthermore, the Subcommittee hearings revealed that carriers, although more likely to receive slamming complaints from consumers, are not required to report such information to the FCC. Without complete information on the total number of slamming complaints, the FCC may not know which carriers are re-

sponsible for the bulk of slamming complaints. In addition, the FCC typically waits until it receives a consumer complaint before it initiates any investigation of a company's slamming activities.

V. RECOMMENDATIONS

Based on the findings and conclusions of the slamming investigation, it is the Subcommittee's recommendations that:

1. Congress should enact legislation to remove the financial incentive to slam. Currently, companies engaging in slamming reap financial benefits from the theft of telephone service from unsuspecting consumers. Congress should make sure that crime does not pay. The liability for charges provision in S. 1740, and included in S. 1618, removes the financial incentive for slamming companies by allowing subscribers who have been slammed, and who have not yet paid their telephone bill to the unauthorized carrier, to pay their original carrier for their phone usage at the rate they would have been charged by their original carrier. This provision will not change existing law and FCC regulations that make the slamming carrier liable to the original carrier for any charges it collects from a slammed subscriber. This provision will take away the financial incentive for slamming and prevent companies, such as those operated by Mr. Fletcher, from benefitting from their fraudulent actions.
2. Congress should enact legislation to eliminate deceptive methods of changing a consumer's long distance service provider, such as the so-called "welcome package." A welcome package is material received by a consumer in the mail that requires the consumer to affirmatively reject the change in carrier; otherwise, the change goes into effect after 2 weeks. The problem is that these welcome packages look like junk mail, and many consumers simply discard them without reading the material. When this happens, the consumers' long distance service is changed automatically. The Subcommittee's investigation revealed that some unscrupulous long distance telephone companies used this verification method to deceive consumers into changing their service by sending the package without having any contact with the consumer or sending the package after deceptively marketing their service over the phone.

   The FCC is currently considering regulations that would eliminate the welcome package option as a method of verifying a consumer's authorization to switch long distance carriers, but has been slow to approve revised regulations. The Subcommittee strongly encourages the FCC to act swiftly to approve these regulations. Furthermore, the verification provisions of both S. 1740 and S. 1618 would make this change by law.

3. Congress should enact legislation to establish tougher fines to deter slamming. Civil penalties must be tough enough so that they are not considered just the cost of doing business. As the Subcommittee revealed in its hearings, most of the penalties the FCC has imposed against companies for slamming have been in the $40,000 to $80,000 range. In a system where an unscrupulous company can make millions of dollars from slamming and disrupt the lives of consumers, the civil fines must be significant. The civil penalties provisions of S. 1740 and S. 1618 mandate tough minimum fines and greater fines for second offenses. Statutory changes should be made to the FCC's fine structure for slamming violations to make slamming hurt where it counts—in the pocketbook of those unscrupulous long distance telephone providers.
4. Congress should enact legislation that establishes criminal penalties for intentional and deliberate slamming. In addition to civil penalties, criminal penalties are needed to deter intentional slamming. Slamming is essentially stealing someone's long distance service, and it should be treated as such. The criminal penalties provisions of S. 1740 and S. 1618 make willful slamming a misdemeanor for the first offense (not more than 1 year imprisonment), and a felony for subsequent intentional slamming offenses (not more than 5 years imprisonment). Under this provision, criminal fines for intentional slamming are the same as those for any other federal crime: a maximum of $100,000 for a misdemeanor and $250,000 for a felony. As the Subcommittee investigation revealed, the impunity with which Mr. Fletcher slammed his subscribers, and his ability to evade all enforcement actions, makes it necessary to establish criminal penalties to deter willful slammers. An individual like Mr. Fletcher who intentionally slams thousands of consumers and steals millions of dollars should be subject to stiff criminal sanctions. The current criminal law does not directly cover his actions, and Congress should change that. Witnesses at both Subcommittee hearings, including FCC Chairman Kennard, FCC Commissioner Ness, GAO witness Mr. Bowron, and Susan Grant of the National Consumers League, have all stated their support of criminal penalties for slamming. Intentional slamming should be a separate, punishable criminal offense.
5. The FCC must be more consistent and aggressive in its enforcement efforts against companies that engage in slamming. The FCC currently has the authority to impose fines on those who engage in repeated and intentional slamming and to revoke the operating authority of carriers in the most severe cases. However, the use of this authority has been inconsistent, slow and inadequate. The FCC must be as aggressive as many of the

States have been in the enforcement of anti-slamming laws and regulations. In the Fletcher case, the Subcommittee found that the FCC initially fined one of his eight companies for just $80,000. In contrast, the Florida Public Service Commission fined Phone Calls, Inc. $860,000 for slamming violations. In addition, Alabama, New York, Illinois, and South Carolina revoked one of the Fletcher company's state telecommunications licenses, due to slamming and other complaints, over a year ago. The FCC only recently took a similar action, more than 2 years after it first began investigating Mr. Fletcher.

6. Congress should enact legislation that requires all carriers to report slamming complaints. The FCC must have accurate and up-to-date information to effectively investigate slamming complaints. The report on slamming violations provisions of S. 1740 and S. 1618 would accomplish this by requiring all telecommunications carriers, including local exchange carriers, to report on the number of subscriber slamming complaints against each carrier. This provision allows the FCC to determine how often these reports would have to be submitted, and would not require carriers to refer complaints on an individual basis. Carriers would be required to provide a summary report that could be used by the FCC to determine which companies are engaging in patterns and practices of slamming. Carrier reporting will enable the FCC to have better statistics on the number of slamming incidences and which companies are the most egregious slammers. Also, carrier reporting may help the FCC to identify fraudulent providers, such as the Fletcher companies, much earlier than if they wait for consumer complaints to be filed with the FCC.
7. The FCC should review its licensing system for long distance providers, particularly with respect to switchless resellers, to determine how to screen out fraudulent providers. While the FCC is following Congress' direction to eliminate unnecessary requirements that would limit competition in the long distance market, the FCC must be able to enforce its orders and prevent fraudulent telephone service providers from remaining in the telecommunication business. Even though the FCC has recently revoked the operating authority of the Fletcher companies, it has no system in place to prevent Mr. Fletcher from continuing to provide long distance services. In fact, GAO reported that there is evidence that Mr. Fletcher is still providing long distance services today, despite numerous enforcement efforts by the FCC. One of the provisions in S. 1740, the Telephone Slamming Prevention Act of 1998, would require the FCC to review the adequacy of its licensing requirements and procedures, and report on

steps it could take to screen out fraudulent long distance providers, particularly those who have had their operating authority revoked by the FCC.

Furthermore, the FCC should, at a minimum, establish requirements that facilities-based carriers, and other companies that sell long distance network access, check with the FCC to determine if a reseller has been properly authorized to be a long distance service provider and that the FCC has not revoked the reseller's operating authority.

* * *

The following Senators, who are Members of the Committee on Governmental Affairs and the Permanent Subcommittee on Investigations, have approved this report:

Susan M. Collins, *Chairman*	John Glenn, *Ranking Member*
Fred Thompson	Carl Levin
William V. Roth, Jr.	Joseph I. Lieberman
Sam Brownback	Daniel K. Akaka
Pete V. Domenici	Richard J. Durbin
Thad Cochran	Robert G. Torricelli
Don Nickles	Max Cleland

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